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LAND PROJECT, RWANDA

REPORT ON NATIONAL WORKSHOP:

**IMPLEMENTATION OF RWANDA EXPROPRIATION LAW AND
OUTCOMES ON THE POPULATION**

**THE IMPACTS OF GENDERED LEGAL RIGHTS TO LAND ON
THE PREVALENCE AND NATURE OF INTER- AND INTRA-
HOUSEHOLD DISPUTES**

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I. INTRODUCTION

This report details the proceedings of the National Workshop to Present Research Findings co-hosted by the Legal Aid Forum (LAF) and the Institute of Legal Practice and Development (ILPD) on 29 July 2015 at the Umubano Hotel in Kigali. LAF and ILPD presented findings on and recommendations stemming from their respective studies, “Implementation of Rwanda’s Expropriation Law and its Outcomes on the Population” and “The Impact of Gendered Legal Rights to Land on the Prevalence and Nature of Intra- and Inter-Household Disputes,” both of which were funded by the United States Agency for International Development (USAID) through the Rwanda LAND Project. The organizations also elicited stakeholder input and feedback on the research findings, as well as stakeholder perspectives on the implications of the findings on policy. The National Workshop was attended by 99 participants representing 72 institutions, including representatives from central and local government institutions, state agencies/parastatals, civil society, academia and the donor community.¹

Background Information

Initiated in June 2012, the LAND Project seeks to strengthen the resilience of Rwandan citizens, communities and institutions and their ability to adapt to land-related economic, environmental and social change. Building the capacity of Rwandan institutions to produce high quality, evidence-based research on land is a critical part of reaching this goal. Such research is fundamental to the identification of needed policy changes in the land sector and also to validate policies and laws that are already contributing to stronger citizen resilience and improved livelihoods.

From February 10-12, 2014, the LAND Project held a multi-stakeholder workshop to identify key, policy-relevant research priorities on land. Drawing from a list of 44 research themes submitted in advance of the workshop, participants collaborated to distill this down to three research priorities that would receive LAND Project support in 2014-2015:

1. To what extent are land tenure administration systems known, accessible and affordable to all Rwandan citizens? What are some of the primary impacts of land certificates and the land administration system, including access to credit for smallholders?
2. What is the impact of gendered legal rights to land, including on the prevalence and nature of intra- and inter-household disputes? What channels do men and women use to bring disputes and assert their rights? How effective are these?
3. What is the status of processes and procedures for the implementation of the Expropriation Law? What are the key challenges and impacts from the implementation of this law?

¹ A full list of workshop participants is included in Annex 2.

Subsequently, the LAND Project sought the views of several Government of Rwanda (GoR) institutions whose mandates intersect with these research priorities to help inform that development of draft technical Terms of Reference for each theme. This was done to ensure that the research was responsive to the information needs of policy makers. On May 13, 2014, the draft Terms of Reference were published in the New Times and igihe.com and also shared with many civil society, research and government institutions operating in the land sector in Rwanda as a Request for Comments. LAND Project staff reviewed the comments and used these to inform revisions to the Terms of Reference for each of the research themes.

LAF submitted a successful bid and was selected to carry out research on topic three, relating to the implementation of the expropriation law and the outcomes on the population, while ILPD was selected to conduct research on topic two, relating to the impacts of gendered legal rights to land on the prevalence and nature of inter- and intra-household land disputes.

The LAF and ILPD awards with the LAND Project seek to generate high quality, evidence-based research. The research is designed to equip decision-makers and civil society with reliable information on which to assess the need for policy adaptation. The award further aims to augment the experience of local organizations in carrying out rigorous research on land-related themes and also strengthen their capacity to do so through teaming with external research partners that have proven skills in research design, research methods, data analysis, analyzing complex land issues, and effectively communicating research to influence policy.

II. COMPOSITION AND AGENDA OF THE WORKSHOP

The one-day National Workshop to Present Research Findings was co-hosted by LAF and ILPD and included presentations of findings from the organizations' studies on expropriation and gendered land rights, respectively. To introduce the study and the background for the LAND Project and the emphasis on land policy research, representatives from USAID and the LAND Project introduced the role of their respective agencies and also the importance of research on expropriation and gendered legal rights to land. Both institutions stressed the importance of scientific research in informing and guiding national policies and programs, and applauded the increasing role and capacities of local civil society organizations in undertaking such research.

The expropriation study, led by LAF, was presented in the morning, while the gendered land rights study, led by ILPD, was presented in the afternoon.

LAF Presentation

This first segment of the workshop focused on LAF's research on expropriation was composed of two main sections: 1) the presentation of the research, including study methodology, findings, and recommendations; and 2) questions and discussion on the findings and recommendations between the researchers and participants.

Mr. Andrews Kananga, the Executive Director of the Legal Aid Forum, introduced the background and context of the research on expropriation, as well as the presentation of the findings. Mr. Frank Mugisha then presented the outline of the research process carried out by the research team and highlighted the major categories of participants for the qualitative research. Ms. Hadley Rose presented the methodology of the research, including an explanation of how scientific sampling was carried out to identify households for the survey and how the national estimate for expropriated households was derived.

The findings of the research were presented in the following categories:

- 1) Profile of expropriations;
- 2) Expropriation process;
- 3) Socio-economic impacts.

The presentation about the profile of expropriations described the characteristics of expropriation projects, including the types of projects, the type of land, and the amount of land commonly taken for expropriation projects. The characteristics of expropriated households were also presented, including the characteristics of heads of households such as occupation, education level, and household size.

The presentation of findings on the expropriation process included a discussion of institutional planning and coordination, public interest determination, notification and public participation procedures, and the processes of valuation and compensation. The findings were supported by graphs, charts, and tables illustrating the most salient points shown in the research, including the average prices paid per square meter of land by project type, expropriating entity, and location of land, the commonality and manner of notification at various stages of the expropriation process, and also the households' experiences with market prices of their lands and delays in receiving compensation.

The presentation of findings on the socio-economic impacts of expropriation upon expropriated households included a discussion of the property and income losses and other challenges faced by such households, as well as findings on household spending habits with the financial compensation. Finally, the mean impact score – an indicator developed by the research team to create a quantitative measurement for household responses to a number of questions related to their livelihoods – was explained and presented. The presentation concluded with a discussion of the research team's recommendations, which fall into five categories:

- 1) Improving planning and valuation procedures for expropriation projects;
- 2) Improving notice procedures;
- 3) Increasing opportunities for public participation;
- 4) Mitigating negative impacts on expropriated households; and,
- 5) Increasing transparency and accountability in the expropriation process.

ILPD Presentation

This segment of the workshop focused on ILPD's research on the impacts of gendered legal rights to land on the prevalence and nature of inter- and intra-household land disputes was composed of four sections: 1) Background and objectives of the study, 2) Research methodology, 3) Key Findings, and 4) Recommendations.

Mr. Aimable Havugiyaremye, Acting Rector of ILPD and a member of the research team, presented the background and objectives of the study. Mr. Havugiyaremye began by introducing Law No 22/99 of 12/11/1999 supplementing Book One of the Civil Code and instituting Part Five regarding Matrimonial Regimes, Liberalities and Inheritances (i.e. "Succession Law"), which is the cornerstone of statutory gendered land rights in Rwanda. Prior to the adoption of the Succession Law, land rights in Rwanda were governed by three regimes: customary (traditional) law, colonial laws still in effect, and laws enacted after independence. In each of these, men were privileged in ownership and control of land whereas women were excluded or had fewer rights.

With this background in mind, Mr. Havugiyaremye presented the two main objectives of the study:

- To assess outcomes emanating from reforms to the legal framework on women's land rights in practice, including in terms of disputes over land.
- To investigate the channels women and men use to resolve such disputes and their effectiveness.

Mr. Havugiyaremye averred that the study was necessary to evaluate the impact of legal changes on women's land rights, women's experiences in claiming their rights, challenges or resistance to these changes, the extent to which women's rights to land lead to (or prevent) land-related disputes, and the prevalence of GBV experienced by women who claim their land rights.

Mr. Daniel Ndayisaba then presented the research methodology for the study, which utilized complementary quantitative and qualitative research methods. The former included a survey of 1,975 households in 15 randomly selected districts, as well as reviews of court data to examine how protections for women's land rights in land-related disputes have been applied since 1997, and how the nature of these disputes has evolved since the adoption of the 1999 Succession Law. The qualitative research included Focus Group Discussions (FGDs) in 20 randomly selected Sectors and Key Informant Interviews (KIIs) with local government, judicial, and administrative officials.

Dr. Charity WIBABARA presented on key research findings, including:

- Approximately one third (35%) of the respondents reported that they were not aware of the 1999 statute that introduced gendered land rights changes.
- There is considerable variance across provinces as to whether daughters should receive equal shares of *umunani* as sons. Thirty-one percent (31%) of respondents believed that daughters should receive a smaller portion of *umunani* land.
- Ninety-three percent (93%) of all respondents said that daughters should have inheritance rights to land. Those who disagreed gave the following reasons: it is not

customary norm (58%), the land is too small to subdivide (9%), women must receive land from their husbands (20%).

- While 99% of respondents indicated that a legally married wife has rights to her husband's land, more than 50% of respondents indicated that informally married women do not have rights to the land of their husbands.
- Seventy-two percent (72%) of respondents agreed that a widow who was legally married is the owner of half of the land and that she must stay on the whole land, whereas 47% of respondents indicated that informally married widows have no rights to the land of their late husbands.
- Of the 173 reported land-related disputes involving women, 45 (26%) indicated that their dispute resulted in GBV. The most common form of GBV was verbal abuse (53%), followed by psychological abuse (16%), physical violence (9%) and death threats (13%). One case of death was reported.

Finally, Dr. Simon Wiehler presented the recommendations stemming from the research findings, which are designed to enhance the ability of women and girls to claim their land rights, particularly *umunani* and inheritance rights; to address the challenges faced by widows and women in informal marriages; to improve women's access to fair dispute resolution mechanisms; and to sensitize local authorities and Abunzi Committees on the correlation between intra-household land disputes and GBV.

III. OUTCOMES OF THE WORKSHOP

Following each presentation of the research findings, participants were invited to comment on the research, provide suggestions for further discussion and inquiry, and offer additional recommendations. Many participants supported the research and thanked the research teams for the high quality research that provides important information about expropriation and gendered land rights and on which policy makers can base future decisions.

Sampling inquiries

On LAF's research related to expropriation, one topic of discussion was about the manner of sampling and, in particular, why certain individuals such as those expropriated for mining concessions may have been left out of the sample. The LAF research team explained that the process of identifying households for the survey was done by obtaining lists of expropriated households at the District and Sector level, and the included Districts and Sectors had been randomly selected proportional to size and minimal incidences of expropriation. Because no prior empirical studies on the incidence of expropriation had been carried out, and because sampling was done at a household level, not affected by costs, values or types of projects, it was merely coincidental that the mining sector was not represented in the survey.

Measuring losses/damages

On LAF's research, a concern was also raised about the emotional value of land, and emotional harms or losses associated with expropriation. Therefore, the participants suggested that the research team recommend including losses due to emotional harm in the Expropriation Law. The research team agreed with this suggestion and, in its full recommendations detailed in the final report, had already recommended enhanced enforcement of the damages clause in the law (5% for relocation expenses and disturbances).

Participants requested clarification as to why the research team reported large land and income losses due to road projects, given that road projects did not tend to cause relocation or total expropriation. The research team noted that, while the percentage of land lost was correlated with the incidence of relocation, large percentage losses of land did not always cause relocation because over 50% of expropriations were carried out on lands that were not the location of the primary residence of the expropriated households. Furthermore, the research team noted that road projects were often extensions of existing roads, which would have been the site of income-generating properties such as shops, which are often located near roads. Therefore, even small extensions of existing roads could cause large losses to households in regards to income-generating activities along the roads.

Participants also questioned the finding on the income losses of expropriated households, specifically income losses for those households leaving urban areas. The research team responded that this measurement was not an extremely important point of inquiry, given the very small number of relocated households (231), the small proportion of households originally

located in urban areas, and the rare occurrence of households actually changing the character of their lands. The research team also noted that income losses were reported by households and respondents may have exaggerated their losses due to negative experiences with the expropriation process. Accordingly, the findings on income losses as characterized by the expropriated population should be considered a subjective measurement of loss due to the expropriation rather than an objective and precise measurement of loss of income.

Valuation procedures

On LAF's research, participants were interested to know about the procedures followed by independent valuers, who had been highlighted by the research team as a source of potential resolution for the ongoing issues with low and perceived unfair valuations of expropriated property. The use of independent valuers is likely to be made mandatory for expropriating entities under the draft law on expropriation, which is currently pending adoption/promulgation. Based on qualitative research, the research team was able to describe independent valuers' process of calculating local land values by averaging recent comparable sales. When asked why these values could diverge from valuations performed by other independent valuers, the research team explained that the valuers themselves reported significant pressures from expropriating entities to reduce values and overall project costs.

Expropriation trends

On LAF's research, one participant raised a concern about the reported upward trend of expropriations, and why a drop was noted in 2013. The research team noted that the relatively high incidences of expropriation in 2012 and 2014 were the probable reason that expropriation had a lull in 2013. Also, some abnormal effects on government budgets may have been recorded in 2012-2013, which would have affected project budgets in 2013. The LAF research team was also asked to comment on the best performing expropriating entity or project initiator. Although the research team did not develop a measurement to the performance of expropriating entities, they recommended considering reported delays, price paid per square meter, and satisfaction levels with projects in order to assess performance. This tended to point to central government, which was able to pay highly in comparison to other entities and also garnered the most consistent levels of support for its projects.

Further recommendations

On LAF's research, in discussing the recommendations presented by the team, participants asked whether recommendations could be specifically directed at the institutions concerned with each recommendation. The research team confirmed that the full research report identified the target stakeholder or institution concerned in each recommendation. The research team was also asked whether they had performed a side-by-side analysis of the current law and the new draft law. The research team confirmed that this analysis was part of the research, and after obtaining the final version of the draft law, they could update that analysis and share it with concerned institutions. In short, however, the draft law maintains most procedures established in the current law.

The participants also provided feedback on ILPD's research findings and suggested the following improvements to their report:

- State strong recommendations on raising awareness of gendered land rights, including focusing on how to change mindsets that resist women's statutory land rights.
- Provide a clear explanation of the legal aspect of *umunani* land rights and highlight the need for a clear legal provision on the gender equitable division of *umunani*.
- Propose practical solutions for the protection of women in *de facto* unions (informal marriage) with regard to land rights.
- Disseminate the policy brief to relevant institutions, including Parliament, before the revision of the 1999 Inheritance Law is finalized.

Next steps

Both the LAF and ILPD research teams noted next steps for promulgating the findings and recommendations stemming from their respective studies. In regards to LAF's research, advocacy efforts are being planned to bring together key policy makers and institutions involved in the implementation of the 2007 Expropriation Law in order to develop a clear action plan for incorporating the findings into future activities. The team will share the final policy brief with all interested institutions and individuals. Furthermore, LAF will use radio programming to reach more households in the general population and inform them about their rights in the expropriation process.

In regards to ILPD's research, the research team plans to distribute the policy brief summarizing their findings to Parliament and other relevant institutions to inform debate on the draft Succession Law.

IV. CONCLUSION

The workshop was well-attended, and participation and interest were high. The workshop was reported in a number of news outlets, including broadcast media and online news sites, including the New Times, the most widely-read English language news outlet in Rwanda, Igihe.com and Umuseke.rw, both reporting in Kinyarwanda language.² In response to LAF's research findings on expropriation, many policy-making institutions (RNRA, MINALOC, RLRC, etc.) expressed a desire to come together as a working group to determine a way forward to implement the findings and recommendations of the research. According to the interest of participants and the population, the LAF research team intends to capitalize on the timeliness and momentum of the research to call an advocacy roundtable with policy makers to ensure that the right policy makers are aware of the recommendations before the new law on expropriation is adopted. Similarly, ILPD will utilize their research findings to try to inform the draft Succession Law which is under debate in the Parliament.

² Theogene Nsengimana, *There are loopholes in the implementation of the expropriation law – study*, THE NEW TIMES, Aug. 3, 2015, available at <http://www.newtimes.co.rw/section/article/2015-08-03/191215/>; Jean Nizeyimana, *'Some' household members do not provide girls with the heritage*, UMUSEKE.RW, July 7, 2015, available at <http://english.umuseke.rw/rwanda-some-household-members-do-not-provide-girls-with-the-heritage.html>; Sam Kwizera, *Imyandikire n'imikoresherezwe y'Itegeko riteganywa itangwa ry'ingurane birahabanye*, IGIHE.COM, Aug. 3, 2015, available at <http://www.igihe.com/amakuru/u-rwanda/article/imyandikire-n-imikoresherezwe-y>; Ange Hatangimana, *Rwanda: Kwimura abaturage ntibikurikiza amategeko – icyegeranyo*, UMUSEKE.RW, July 30, 2015, available at <http://www.umuseke.rw/rwanda-kwimura-abaturage-ntibikurikiza-amategeko-icyegeranyo.html>.

APPENDIX 1: WORKSHOP AGENDA



The Legal Aid Forum
Working Together for Equitable Access To Justice in Rwanda

NATIONAL CONFERENCE TO PRESENT RESEARCH FINDINGS ON TWO STUDIES:

- Implementation of Rwanda's Expropriation Law and Outcomes on the Population, by The Legal Aid Forum (LAF)
- Impact of Gendered Legal Rights to Land on the Prevalence and Nature of Intra-and Inter-Household Disputes in Rwanda, by The Institute of Legal Practice and Development (ILPD)

Date: 29/07/2015, Venue: Novotel/Umubano Hotel, Kacyiru-Kigali

AGENDA OF THE CONFERENCE

TIME	ACTIVITY	RESPONSIBLE
9:00am – 9:15am	Arrival and registration of participants	Participants, LAF & ILPD
9:15am – 9:30am	Opening remarks	USAID and LAND Project
9:30am – 9:45am	Background and Context of the Research on Expropriation	Executive Director of LAF
9:45am - 11:00am	Presentation of the research findings on expropriation in public interests in Rwanda	LAF Researchers
11:00am – 11:15am	Coffee break	Participants, LAF & ILPD
11:15am – 12:30pm	Discussions (Q&A) on expropriation research findings	Participants & LAF
12:30pm – 1:30pm	Lunch	
1:30pm – 1:45	Background and Context of the Research on the gendered legal rights research findings	ILPD Rector
1:45pm – 2:45pm	Presentation of the gendered legal rights research findings	ILPD researchers
2:45pm – 3:45pm	Discussions (Q&A) on the gendered legal rights research findings	Participants & ILPD
3:45pm – 4:00pm	Closing remarks & way forward	LAF, ILPD & LAND Project
4:00pm-	Coffee break	

APPENDIX 2: PARTICIPANTS LIST

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